

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 03-CR-10356-MLW

UNITED STATES

VS.

FREDERICK A. SIMONE,
a/k/a FREDDY, a/k/a
THE NEIGHBOR,

VINCENT C. GIOCCHINI,
a/k/a DEE DEE; and

FRANCIS WHITE, a/k/a
THE WHITE-HAIRED GUY

**MOTION TO SUPPRESS PHYSICAL EVIDENCE NO. 1
SEIZED PURSUANT TO A SEARCH WARRANT**

Now comes the defendants, Frederick A. Simone Vincent Giocchini and Francis White, in the above numbered indictment and move this Court for an order suppressing for use in evidence the fruits of the search warrant issued by order of the Middlesex Superior Court, Botsford, J. on December 6, 2000 annexed hereto as Exhibit A.

In support of this motion the defendants say that the warrant was based upon an affidavit that sought permission to search premises at the home of the defendant, Frederick Simone at 32 Lowther Road, Framingham, Massachusetts. The warrant was unreasonable and violative of the defendant's rights secured him under the Fourth Amendment to the United States Constitution in that it was based upon an affidavit that did not provided a sufficient factual basis for the finding of probable cause that "firearms, handguns, pistols, revolvers, rifles, shotguns, assault weapons and/or ammunition" would be located at the place to be searched at the time the No-Knock warrant was issued.¹

¹ The warrant was issued that day and executed at the defendant's home the following day.

In addition to the lack of probable cause to believe that items sought would be present where the warrant was to be executed, the information contained in the warrant was stale and failed to provide probable cause to believe that the weapon(s) would be at the premises at the time the warrant was issued and executed.

Further, the warrant was a “No-Knock” warrant that authorized the forced entry of the premises without any of the constitutionally mandated information that would justify such “No-Knock” forceable entry.

WHEREFORE the defendants aver that the execution of the warrant and subsequent seizure of the .32 cal. firearm purportedly found under a bureau in the defendant’s home should be suppressed. Appendix to Motion to Suppress No. 1 will be hand delivered to the Clerk’s Office.

Frederick Simone
By his attorney

/s/Kevin J. Reddington

Francis White,
By his attorney

/s/ Richard M. Egbert, Esq.

Vincent C. Giocchini,
By his attorney

/s/ Robert George, Esq.